

1 BYSTANDERS. I THINK I WAS KIND OF NERVOUS OR SOMETHING, BECAUSE
2 I HAVE BEEN PULLED OVER MANY TIMES, AND IT WAS LIKE WEIRD. I
3 DON'T KNOW.

4 Q. DID HE PULL YOU OUT OF THE CAR ALL AT ONCE, OR PULL JENNY
5 OUT FIRST?

6 A. PULLED JENNY OUT FIRST.

7 Q. DID HE LEAN HIS HEAD INTO THE CAR AND TALK TO YOU BEFORE HE
8 DID THAT?

9 A. NO. HE MADE JENNY ROLL DOWN THE WINDOW AND THEN HE JUST
10 HAD US GET OUT.

11 Q. DID HE ASK HER TO GET OUT FIRST?

12 A. YES.

13 Q. DID HE SAY ANYTHING ABOUT A FRONT LICENSE PLATE?

14 A. NO.

15 Q. WAS THERE A FRONT LICENSE PLATE ON THE DASHBOARD?

16 A. I DON'T KNOW.

17 Q. WAS IT IN THE BACK SEAT?

18 A. THE FIRST I EVER HEARD ABOUT A LICENSE PLATE WAS WHEN JENNY
19 SAID SHE TALKED TO THE PUBLIC DEFENDER ABOUT THE LICENSE PLATE.

20 I SAID, "THAT'S NOT WHY HE PULLED US OVER. HE SAID WE WERE
21 DRINKING IN THERE." SHE SAID, "I DON'T KNOW. IT'S ALL ABOUT A
22 LICENSE PLATE NOW." THAT'S WHY I DIDN'T KNOW WHAT IT WAS ALL
23 ABOUT. I THOUGHT IT WAS A WHOLE INCIDENT, BECAUSE I DON'T
24 REMEMBER ANYTHING ABOUT A LICENSE PLATE.

25 Q. YOU PHYSICALLY DON'T REMEMBER HIM LEANING HIS HEAD INTO THE

1 CAR AND SAYING, "YOU DON'T HAVE A FRONT LICENSE PLATE IN THE
2 CAR"?

3 A. NO WAY. THAT DIDN'T HAPPEN. HE SAID, "YOU GUYS DRINKING
4 IN HERE?" HE SAID, "YOU GUYS GET OUT OF THE CAR".

5 Q. DID YOU WITNESS MISS BENZON MAKE ANY MOVEMENT LIKE TURNING
6 AT HER WAIST OR BENDING DOWN TO HIDE SOMETHING BEFORE THE
7 OFFICER APPROACHED THE CAR?

8 A. NO. SHE SAID, "WHAT ARE THE POLICE COMING OVER HERE FOR?"
9 I WAS LIKE, "I DON'T KNOW". WHEN HE SAID ABOUT THE DRINKING, I
10 INSTANTLY SAID WE WERE NOT DRINKING. "THERE IS NO ALCOHOL IN
11 HERE." HE JUST HAD US GET OUT OF THE CAR.

12 Q. DID YOU SEE A PLASTIC BOTTLE CAP LATER ON THE DASHBOARD?

13 A. NO.

14 Q. YOU WERE IN THE BACK SEAT. WERE YOU IN A POSITION TO SEE
15 WHETHER THOSE THINGS WERE ON THE DASH?

16 A. NO. I DIDN'T SEE ONE. ABOUT THE LIGHTER, I DON'T KNOW. I
17 SMOKE CIGARETTES AND A LIGHTER FLOATS AROUND IN CAR, SO I DON'T
18 KNOW, BUT I DON'T REMEMBER SEEING ANY SPECIFIC LIGHTER OR ANY
19 BOTTLE OF WATER OR ANYTHING LIKE THAT.

20 Q. ARE YOU AWARE OF WHETHER OR NOT THERE WAS A FRONT LICENSE
21 PLATE AFFIXED, STUCK ON THE FRONT OF THE CAR?

22 A. NO, I'M NOT.

23 Q. EITHER THAT DAY OR DURING THE NEXT FEW DAYS?

24 A. NO.

25 Q. YOU DIDN'T KNOW ONE WAY OR THE OTHER?

1 A. THE LICENSE PLATE WAS NEVER AN ISSUE. I DROVE THE CAR
2 HOME, AND IF THEY WERE TO SAY ANYTHING ABOUT A LICENSE PLATE, I
3 WOULD HAVE LOOKED, BUT IT NEVER CAME UP. FIRST I EVER HEARD OF
4 IT WAS WHEN THE DISTRICT ATTORNEY SAID SOMETHING IS GOING ON
5 WITH A LICENSE PLATE IN NICOLE'S CASE.

6 Q. THE DISTRICT ATTORNEY?

7 A. OR THE PUBLIC DEFENDER.

8 THE COURT: INVESTIGATOR.

9 THE WITNESS: YES. HE SPOKE TO MY MOTHER BEFORE HE
10 SPOKE TO ME AND SAID SOMETHING ABOUT A LICENSE PLATE, AND SHE
11 TOLD ME TO GET IN CONTACT WITH THEM OR SOMETHING.

12 MS. FALK: YOUR HONOR, I DON'T HAVE ANY FURTHER
13 QUESTIONS FOR MR. MC NATT.

14 CROSS-EXAMINATION

15 BY MS. WANG:

16 Q. GOOD AFTERNOON. BEFORE YOU LOOKED AT THE POLICE REPORT,
17 YOU HAD NO INDEPENDENT RECOLLECTION OF THE EVENTS?

18 A. TO MAKE SURE THAT IT WAS WHAT I WAS THINKING OF, BECAUSE I
19 NEVER HAD A CHANCE TO TALK TO ANYBODY ABOUT THIS STUFF. I HAVE
20 THE SUBPOENA. I WAS KIND OF RUDE TO THE PUBLIC DEFENDE BECAUSE
21 I DIDN'T KNOW WHAT WAS GOING ON, AND SO HE JUST DROPPED A
22 SUBPOENA AT MY DOOR, AND I JUST CAME HERE, AND I WAS FINDING
23 PARKING, SO I DIDN'T GET TO TALK TO THEM BEFORE IT WAS
24 2 O'CLOCK. I WANTED TO MAKE SURE -- I NEVER GOT TO READ
25 ANYTHING. I'M RESPONSIBLE FOR WHAT COMES OUT OF MY MOUTH. I

1 WANT TO MAKE SURE I KNOW.

2 Q. NOW THAT YOU READ THE POLICE REPORT, YOU HAVE A
3 RECOLLECTION OF THAT DATE?

4 A. YES, MA'AM.

5 Q. IS THE POLICE REPORT ACCURATE, WHAT YOU REMEMBER?

6 MS. FALK: OBJECTION TO THAT QUESTION. IT'S VAGUE. IT
7 TALKS ABOUT MULTIPLE STATEMENTS IN THE REPORT.

8 THE COURT: OVERRULED.

9 THE WITNESS: THERE IS -- THE POLICE REPORT SAID A LOT
10 OF STUFF ABOUT OTHER THINGS BESIDES THE LICENSE PLATE. I DON'T
11 KNOW ANYTHING ABOUT THAT, ABOUT THE LICENSE PLATE. THIS IS THE
12 FIRST I HEARD OF THAT. THAT'S NOT ACCURATE. ONLY THING THAT
13 WAS ACCURATE WAS THAT WE WERE IN THE PARK AND JENNY GOT PULLED
14 OUT OF THE CAR FIRST AND WE WERE ALL TAKEN OUT OF THE CAR AND I
15 DROVE THE CAR HOME.

16 Q. DO YOU RECALL SEEING THE CAR IN THE VICINITY OF CRISSY
17 FIELD?

18 A. YES. HE CAME FROM -- WE ARE PARKED IN THE FIELD, NOT
19 ACTUALLY A PARKING LOT. IT'S GRASS FIELD TO THE LEFT OF THE
20 RESTROOMS, AND HE WAS DRIVING THROUGH THE GRASS, AND JUST, HE --
21 I MEAN -- WE'RE ONLY THERE, I SWEAR, LIKE 10 SECONDS, AND HE
22 PULLED UP, AND I GUESS SOMETIMES, YOU KNOW, A GROUP OF KIDS IN
23 THE CAR, SO HE THOUGHT WE WERE DRINKING. THAT'S WHAT HE
24 THOUGHT. SO HE CAME AND SAID STUFF ABOUT THE ALCOHOL HAD US GET
25 OUT OF THE CAR.

1 Q. THIS CAR WAS A FORD EXPLORER WITH SIRENS?

2 A. YES; THAT'S WHAT I REMEMBER. IT WAS BLACK, I THINK.

3 Q. WAS THE OFFICER THAT APPROACHED THE CAR IN UNIFORM?

4 A. HE HAD A WEAPON ON HIM, BUT I SWEAR IT WAS LIKE PARK
5 PATROL. I DIDN'T KNOW IT WAS POLICE. I COULD BE MISTAKEN.

6 Q. WHAT WAS HE WEARING?

7 A. BLACK. I DIDN'T SEE ANYTHING THAT SAID SAN FRANCISCO
8 POLICE ON HIM, THOUGH.

9 Q. WHAT KIND OF SHIRT AND WHAT KIND OF PANTS?

10 A. HE WAS WEARING -- JUST WEARING ALL BLACK, ALL BLACKED OUT.
11 WEARING BLACK PANTS. I THINK HIS WEAPON WAS BLACK, BLACK PANTS,
12 BLACK SHIRT. HE HAD A UTILITY BELT, ALL THE STUFF ON IT, BLACK
13 WEAPON, LOOKED LIKE A CERTAIN TYPE OF GLOCK PISTOL. THAT'S WHAT
14 I REMEMBER ABOUT HIM.

15 Q. WERE YOU WATCHING THE VEHICLE AS IT APPROACHED?

16 A. NO. AS HE APPROACHED, JENNY SAID, "THE POLICE ARE COMING
17 OVER," AND I LOOKED UP AND HE WAS JUST RIGHT THERE. WE HADN'T
18 HAD TIME TO GET OUT OF THE CAR YET.

19 Q. SO YOU'D JUST GOTTEN THERE?

20 A. YES.

21 Q. SO I WASN'T ABOUT TO LEAVE. DEPENDS, LIKE IT WAS COLD
22 ENOUGH TO WALK ON THE BEACH OR NOT. I DON'T KNOW. WE CAME UP
23 THERE AND WE JUST SHOWED UP. ME AND MY GIRLFRIEND WALK ON THAT
24 BEACH ALL THE TIME.

25 Q. YOU JUST SHOWED UP AND PARKED THE CAR?

1 A. YES.

2 Q. THEN A BLACK FORD EXPLORER WITH SIRENS ON IT APPROACHED AND
3 PARKED?

4 A. YES. I SAID A FORD EXPLORER. I CAN'T BE POSITIVE, BUT IT
5 WAS AN SUV. THAT'S WHAT I REMEMBER.

6 Q. WAS THAT THE ONLY POLICE CAR THAT WAS THERE?

7 A. THE ONLY ONE I SAW, YES.

8 Q. AT ALL TIMES?

9 A. YES.

10 Q. WAS THERE ONLY ONE OFFICER THERE AT ALL TIMES?

11 A. I REMEMBER THEY PUT HER IN HANDCUFFS AND PUT HER IN THE
12 BACK, I THOUGHT IN THE BACK OF THE SUV, TOLD US WE COULD GO. HE
13 GAVE ME MY LICENSE BACK. WE LEFT BEFORE THEY EVEN LEFT THE
14 SCENE.

15 Q. YOU SAID THEY PUT HER IN HANDCUFFS. ARE YOU REFERRING TO
16 MORE THAN ONE OFFICER?

17 A. POLICE.

18 Q. ONE POLICE OFFICER?

19 A. YEAH. IF THERE WAS ANOTHER POLICE OFFICER THERE, I DIDN'T
20 SEE HIM.

21 Q. DO YOU RECOGNIZE THE POLICE OFFICER THAT YOU DID SEE THAT
22 DAY?

23 A. IF IT'S THAT GENTLEMAN, NO, I DON'T RECOGNIZE HIM. BUT
24 LIKE I SAID, WE WERE ONLY THERE LIKE A VERY SHORT TIME. THEY
25 PULLED HER OUT OF THE CAR, SAID SHE HAD A WARRANT FOR SOMETHING,

1 HAD HER INHANDCUFFS, AND WAS LIKE REALLY CONCERNED WITH HER AND
2 PUTTING HER IN CUFFS; AND THEN, LIKE I SAID, THERE WAS
3 BYSTANDERS KEPT COMING UP ASKING QUESTIONS LIKE "DID HE PULL YOU
4 GUYS OVER? YOU GUYS DIDN'T DO ANYTHING," STUFF LIKE THAT. HE
5 LET US GO. HE SAID, "YOU GUYS ARE FREE TO GO". WE SAID, OR
6 JENNIE ASKED, "IS IT ALL RIGHT IF I TAKE MY CAR?" HE SAID,
7 "YES". I JUMPED IN IN THE CAR AND LEFT, ME AND JENNY LEFT.

8 Q. WHEN YOU SAY HE CAME UP AND TOLD HER SHE HAD A WARRANT, ARE
9 YOU REFERRING TO NICOLE OR JENNIE?

10 A. NICOLE.

11 Q. HE CAME UP AND TOLD NICOLE SHE HAD A WARRANT?

12 A. HE RAN HER NAME FIRST, BECAUSE SHE WAS THE DRIVER, AND HE
13 SAID SHE HAD A WARRANT FOR SOMETHING. I REMEMBER NICOLE TELLING
14 HIM LIKE, "I THOUGHT I TOOK CARE OF THAT". HE PUT HER IN
15 HANDCUFFS.

16 Q. HE DIDN'T SAY ANYTHING ABOUT A LICENSE PLATE?

17 A. NO.

18 Q. JUST CAME UP AND TOOK HER AND TOLD HER SHE HAD A WARRANT?

19 A. YES. TOOK ALL THREE OF OUR I.D.'S.

20 Q. DID HE TELL THE PASSENGER, JENNY, TO GET OUT OF THE CAR?

21 A. YES. ALL OF US GOT OUT OF THE CAR. HE HAD US ALL STANDING
22 ALONG THE CAR.

23 Q. HE TOLD ALL OF YOU TO GET OUT OF THE CAR AT THE SAME TIME?

24 A. NO. PULLED JENNY OUT FIRST. I CAN'T REMEMBER IF NICOLE
25 CAME FIRST OR I CAME SECOND. I DON'T REMEMBER. HE PULLED JENNY

1 OUT FIRST. SHE WAS OUTSIDE. THEN I THINK HE RAN THE I.D.'S AND
2 FOUND OUT SHE HAD A WARRANT AND ALL CONCERN JUST WENT TO HER.

3 Q. DID HE TELL YOU WHY HE TOLD JENNY TO GET OUT OF THE CAR?

4 A. I THINK THE THING -- HE WAS CHECKING FOR ALCOHOL. HE
5 THOUGHT WE WERE DRINKING.

6 Q. IT'S YOUR TESTIMONY HE CAME UP AND ASKED IF YOU WERE
7 DRINKING AND HE TOLD JENNIE TO GET OUT OF THE CAR?

8 A. HE CAME AND SAID, "YOU KNOW THERE IS NO DRINKING HERE".
9 WE SAID, "WE KNOW".

10 "WHAT ARE YOU GUYS DOING HERE?"

11 WE SAID, "JUST HANGING OUT". EITHER JENNY OR NICOLE SAID
12 "WE'RE HANGING OUT".

13 HE SAID, "GET OUT OF THE CAR".

14 HE PULLED ME OUT FIRST. I THINK I WAS SECOND. HE PULLED
15 US OUT, TOOK OUR I.D.'S, RAN OUR MAKE. NICOLE'S CAME BACK WITH
16 A WARRANT. LIKE I SAID, ALL FOCUS WENT ON HER. HE WAS WASN'T
17 REALLY CONCERNED ABOUT ANYTHING ELSE. THEN HE SAID WE COULD
18 LEAVE. THAT'S WHAT I SPECIFICALLY REMEMBER. HE SAID WE COULD
19 LEAVE, IT WAS ALL RIGHT. SO I DROVE THE CAR AND WE DROVE OUT OF
20 THERE.

21 Q. SO THE OFFICER HE CAME TO THE CAR, SAID "YOU KNOW THERE'S
22 NO DRINKING". THAT IS THE WHOLE CONVERSATION THAT HAPPENED?
23 SOMEONE SAID THEY WERE JUST HANGING OUT, AN ENTIRE CONVERSATION
24 ABOUT THAT HAPPENED, AND THEN HE TOLD JENNY TO GET OUT OF THE
25 CAR. IS THAT CORRECT?

1 A. YES. IT WASN'T AN ENTIRE CONVERSATION. IT WAS JUST A FEW
2 WORDS. "WHAT ARE YOU DOING THERE?"

3 "JUST HANGING OUT. PROBABLY GOING TO WALK ON THE BEACH".
4 AND HE SAID, "GET OUT OF THE CAR".

5 INNOCENT BYSTANDERS HAPPEN TO BE WALKING BY. "WHAT'S GOING
6 ON?" THEY'RE ACTIVISTS OR SOMETHING. "WHAT'S GOING ON? WHY IS
7 HE BOTHERING YOU? YOU GUYS JUST GOT HERE."

8 I REMEMBER THAT.

9 Q. WHEN HE SAID, "GET OUT OF THE CAR," WAS HE TALKING
10 SPECIFICALLY TO JENNY OR ALL OF YOU?

11 A. I'M NOT SURE. YOU HAVE TO ASK HIM. WE ALL ENDED UP
12 GETTING OUT OF THE CAR AND JENNY WAS FIRST.

13 Q. AND YOU REMEMBER SPECIFICALLY -- TO YOUR RECOLLECTION, YOU
14 KNOW FOR SURE THAT HE DIDN'T SAY ANYTHING ABOUT A LICENSE PLATE?

15 A. YES.

16 Q. YOU REMEMBER FOR SURE THAT HE SAID THAT YOU WERE DRINKING.
17 YOU REMEMBER THE OTHER CONVERSATION THAT HAPPENED?

18 A. I REMEMBER FOR SURE THAT LICENSE PLATE NEVER CAME UP. THE
19 ROASON WHY HE CAME OVER AND WAS DOING THAT IS BECAUSE HE THOUGHT
20 WE WERE DRINKING IN THE PARK. HE SAID, "YOU KNOW THERE IS NO
21 DRINKING IN THE PARK". WE SAID, "YES. WE'RE NOT DRINKING".
22 SOMEBODY IN THE FRONT -- ONE OF THEM, JENNY OR NICOLE, SAID,
23 "WE'RE NOT DRINKING, JUST HANGING OUT". AND HE WAS LIKE, "OKAY.
24 GET OUT OF THE THE CAR".

25 Q. THERE WERE DRUGS IN THE CAR, CORRECT?

1 A. I DON'T KNOW. I NEVER HEARD ANYTHING ABOUT DRUGS.

2 Q. SO YOU DIDN'T KNOW THAT THERE WAS HEROIN IN THE CAR?

3 A. NO.

4 Q. YOU DIDN'T KNOW THERE WAS SYRINGES IN THE CAR?

5 A. NO.

6 Q. YOU DIDN'T KNOW THERE WAS A PLASTIC BOTTLE CAP WITH WATER
7 IN THE CAR?

8 A. NO.

9 Q. YOU DIDN'T KNOW THERE WAS A METAL SPOON WITH TAR HEROIN
10 RESIDUE ON IT?

11 A. NO. I NEVER SAW ANY OF THAT. HE SAID, "GET OUT OF THE
12 CAR". THE WARRANT CAME BACK THAT NICOLE HAD, AND ALL HIS FOCUS,
13 EVERYTHING WENT TO HER, HANDCUFFING HER, CALLING IN BACK-UP, I
14 THINK. I DON'T KNOW IF IT WAS BACK-UP. HE WAS CALLING SOMEONE
15 ON HIS PHONE AND THEN INSTANTLY LET US GO. I NEVER SAW ANYTHING
16 ABOUT DRUGS. AS FAR AS I KNOW, IF THERE IS DRUGS IN THE CAR,
17 EVERYONE THERE GETS ARRESTED OR SOMETHING. I DON'T KNOW.

18 Q. OKAY. DID YOU SEE HIM SEARCH THE CAR?

19 A. NO. HE DIDN'T SEARCH THE CAR. AS SOON AS THERE IS A
20 WARRANT, HE PUT HER IN CUFFS OUTSIDE THE CAR, GAVE BACK OUR
21 I.D.'S AND SAID, "YOU GUYS CAN GO".

22 Q. WERE YOU STANDING THERE THE WHOLE TIME?

23 A. HE HAD ME STANDING AT THE BACK OF THE VEHICLE.

24 Q. SO IF THE CAR WOULD BE SEARCHED, YOU WOULD HAVE KNOWN ABOUT
25 IT BECAUSE FROM YOUR VIEWPOINT YOU WOULD HAVE SEEN IT?

1 A. YES.

2 Q. THE CAR WAS NOT SEARCHED?

3 A. HE NEVER WENT INSIDE THE CAR. I NEVER SAW HIM. HE HAD ME
4 IN THE BACK OF THE CAR FACING THE QUARTER PANEL, AND HE HAD ME
5 GO TO THE REAR OF THE VEHICLE, OUR I.D.'S WERE SITTING ON THE
6 BACK OF THE TRUNK. AS SOON AS NICOLE'S WARRANT CAME UP, HE
7 GRABBED HER, HAD HER IN HANDCUFFS, HE HAD US GRAB OUR I.D.'S,
8 AND SHE SAID, "CAN YOU TAKE MY CAR OUT OF THE HERE?" HE SAID,
9 "GO AHEAD." WE LEFT AND THEY WERE STILL IN THE PARK. THE CAR
10 WAS STILL THERE WHEN WE WERE LEAVING.

11 Q. SO YOU LEFT IN THE CAR?

12 A. YEAH. I LEFT IN THE CAR.

13 THE COURT: POLICE CAR?

14 THE WITNESS: THE POLICE CAR. SORRY.

15 BY MS. WANG:

16 Q. DIDN'T YOU TESTIFY THAT YOU DROVE THAT CAR THAT YOU WERE
17 IN?

18 A. YES. I LEFT THERE. I DROVE. I WAS THE ONLY ONE WITH A
19 LICENSE, SO I DROVE THE CAR. I DROVE BACK TO SONOMA COUNTY.

20 Q. THE OFFICER DIDN'T TAKE ANYTHING OUT OF THE CAR?

21 A. NO. I DIDN'T SEE HIM TAKE ANYTHING OUT OF THE CAR.

22 Q. HE NEVER LOOKED TO SEE IF THERE WAS ALCOHOL OR DRUGS?

23 A. I DIDN'T SEE HIM DO THAT. I THINK ONCE THAT WARRANT CAME
24 UP, HE WAS JUST REALLY FOCUSING ON THAT.

25 Q. WAS THE CAR BLOCKD AT ANY TIME, THE PATH OF THE CAR, TO

1 LEAVE, BY ANY OTHER CARS OR ANY OBSTACLES?

2 A. NO. WE PARKED RIGHT ON -- SHE PULLED IN, PARKED RIGHT --
3 THERE IS ROAD AND THE GRASS -- ON THE EDGE OF THE GRASS IN THE
4 ROAD.

5 Q. YOU HAD JUST GOTTEN THERE, YOU WERE THERE FOR ABOUT FIVE
6 SECONDS; SO THAT WOULDN'T HAVE BEEN ENOUGH TIME FOR ANYONE TO
7 POUR SOME WATER INTO A PLASTIC BOTTLE CAP AND PUT IT ON THE
8 DASHBOARD, RIGHT?

9 A. NO. I DIDN'T SEE ANY WATER. I DIDN'T EVEN SEE A WATER
10 BOTTLE. AS FAR AS I KNOW, WE WERE GOING THERE JUST TO HANG OUT.
11 NICOLE AND JENNY USED TO BE BEST FRIENDS. WHENEVER THEY WERE
12 ABLE TO SEE EACH OTHER, WHENEVER THEY COULD, THEY WANTED TO DO
13 SOMETHING. I WAS -- JENNY WAS MY GIRLFRIEND AT THE TIME, SO I
14 CAME ALONG, AND WE ENDED UP GOING TO THE BEACH.

15 Q. AS FAR AS YOU KNEW, THERE WAS NO CONTRABAND IN THE VEHICLE?

16 A. NO.

17 Q. SO --

18 A. I HAD NOTHING ON ME. I DIDN'T SEE ANYTHING ON ANYBODY
19 ELSE.

20 MS. WANG: NOTHING FURTHER.

21 THE COURT: ANYTHING FURTHER?

22

23

24

REDIRECT EXAMINATION

25 BY MS. FALK:

1 Q. MR. MC NATT, DO YOU REMEMBER THE OFFICER ASKING WHOSE CAR
2 IT WAS?

3 A. I CAN'T BE SURE. HE MIGHT HAVE. I CAN'T BE SURE.

4 MS. FALK: NO FURTHER QUESTIONS.

5 THE COURT: ANYTHING FURTHER?

6 MS. WANG: NO.

7 THE COURT: YOU MAY STEP DOWN.

8 THE COURT: CALL YOUR NEXT WITNESS.

9 IS HE EXCUSED?

10 MS. FALK: YES. THANK YOU.

11 THE CLERK: TAKE THE WITNESS STAND, PLEASE. RAISE YOUR
12 RIGHT HAND TO BE SWORN.

13 YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY YOU SHALL GIVE
14 IN THE MATTER NOW PENDING BEFORE THIS COURT, SHALL BE THE TRUTH,
15 THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO HELP YOU GOD.

16 THE WITNESS: YES.

17 JOHN DILLON SULLIVAN,
18 CALLED AS A WITNESS BY THE DEFENSE, HAVING BEEN DULY SWORN,
19 TESTIFIED AS FOLLOWS:

20 THE CLERK: STATE YOUR FULL NAME AND SEPLL YOU LAST
21 NAME, FOR THE RECORD.

22 THE WITNESS: JOHN DILLON SULLIVAN, S-U-L-L-I-V-A-N.

23

24 DIRECT EXAMINATION

25 BY MS. FALK:

1 Q. MR. SULLIVAN, WHERE ARE YOU LIVING?

2 A. AT A RESIDENTIAL TREATMENT PROGRAM IN SANTA ROSA.

3 Q. HOW LONG HAE YOU LIVED IN THE BAY AREA?

4 A. MY WHOLE LIFE.

5 Q. HOW LONG HAVE YOU KNOWN NICOLE MAYS?

6 A. ABOUT A YEAR AND A MONTH.

7 Q. HOW DO YOU KNOW NICOLE?

8 A. WE MET AT A RESIDENTIAL TREATMENT FACILITY.

9 Q. AND DID YOU USED TO BE BOYFRIEND AND GIRLFRIEND?

10 A. YES.

11 Q. DID THAT END --

12 A. YES.

13 Q. -- AT SOME POINT?

14 A. YES.

15 Q. WHEN WAS THAT?

16 A. APRIL OF THIS YEAR.

17 Q. HAVE YOU SPOKEN TO HER OFTEN SINCE THEN?

18 A. PROBABLY THREE TIMES, FOUR TIMES, MAYBE, AT THE MOST.

19 Q. BUT YOU'RE NOT IN REGULAR CONTACT WITH HER?

20 A. NO.

21 Q. I'D LIKE TO TURN YOUR ATTENTION TO MARCH 17, 2007. WERE
22 YOU THE OWNER OF AN AUTOMOBILE ON THAT DATE?

23 A. YES.

24 Q. WHAT KIND OF CAR?

25 A. TOYOTA CAMRY, FOUR-DOOR.

1 Q. HOW LONG HAD YOU OWNED THAT CAR AS OF MARCH 17, 2007?

2 A. I CAN'T RECALL. I'M NOT SURE HOW LONG.

3 Q. DO YOU REMEMBER IF YOU OWNED IT FOR OVER A YEAR?

4 A. PRETTY SURE IT WAS OVER A YEAR. I CAN'T RECALL EXACTLY. I
5 DON'T HAVE THE PAPERWORK. IT'S WAS AWHILE.

6 Q. DID YOU BUY THE CAR SOMEONE ELSE?

7 A. YES.

8 Q. NOW, WHEN YOU BOUGHT THE CAR, WAS THERE A LICENSE PLATE ON
9 IT?

10 A. YES.

11 Q. AND AT SOME POINT IN TIME DID ANYTHING HAPPEN TO THOSE
12 LICENSE PLATES?

13 A. YES. I MOVED TO GURNEYVILLE, CALIFORNIA AND THE REAR
14 LICENSE PLATE WAS STOLEN, AND I PUT NEW TAGS ON IT.

15 Q. WHAT DID YOU DO?

16 A. I WENT TO THE DMV AND REPORTED IT STOLEN AND PAID \$17.00
17 TO GET NEW PLATES AND A NEW TAG.

18 Q. DO YOU REMEMBER ABOUT WHEN THAT WAS?

19 A. I THINK EITHER NOVEMBER OR DECEMBER OF LAST YEAR.

20 MS. FALK: YOUR HONOR, I WOULD LIKE TO MARK DEFENSE EXHIBIT
21 D, WHICH A CERTIFIED COPY OF A DMV RECORD. I HAVE A COPY
22 FOR THE COURT AND ALSO PROVIDED A COPY PREVIOUSLY TO THE COURT
23 AND TO THE GOVERNMENT.

24 THE COURT: EXHIBIT D.

25 MS. FALK: MAY I APPROACH?

1 THE COURT: YES.

2 BY MS. FALK:

3 Q. MR. SULLIVAN, I WOULD LIKE YOU TO TAKE A LOOK AT THAT
4 DOCUMENT AND TELL ME IF YOU RECOGNIZE IT.

5 A. YES.

6 Q. IS THAT YOUR HANDWRITING ON THIS DOCUMENT?

7 A. YES.

8 Q. DID YOU SUBMIT THIS DOCUMENT TO THE DMV?

9 A. YES.

10 Q. FOR WHAT PURPOSE?

11 A. TO REPLACE THE LICENSE PLATE THAT WAS STOLEN.

12 MS. FALK: I'D ASK DEFENSE D BE ADMITTED.

13 THE COURT: ANY OBJECTION?

14 MS. WANG: NO.

15 THE OCURT: ADMITTED.

16 BY MS. FALK:

17 Q. MR. SULLIVAN, DID YOU RECEIVE NEW PLATES FOR YOUR TOYOTA?

18 A. YES.

19 Q. WHAT DID YOU DO WHEN YOU RECEIVED THEM?

20 A. PUT THEM ON THE CAR IMMEDIATELY.

21 Q. HOW DID YOU PUT THEM ON?

22 A. WITH A PHILLIPS SCREWDRIVER AND CERTAIN BOLTS THAT LOCK
23 WHEN YOU SCREW THEM. THAT WAY THEY COULDN'T BE STOLEN AGAIN.

24 Q. ARE YOU QUITE SURE YO USED SPECIAL BOLTS?

25 A. I'M SURE I DID ON THE REAR PLATE.

1 Q. WHAT ABOUT THE FRONT PLATE?

2 A. FRONT IS REGULAR BOLTS. I DIDN'T FEEL IT WAS IN JEOPARDY.

3 Q. ARE YOU SURE YOU PUT BOTH THE FRONT AND THE REAR,

4 ABSOLUTELY POSITIVE, THE NEW TAG?

5 A. THE NEW PLATES. I PUT THE NEW PLATES AND NEW TAGS WITH THE
6 PLATE.

7 Q. YOU DIDN'T YOU GET A WHOLE NEW TAG NUMBER?

8 A. THE PREVIOUS TAG WAS STOLEN, SO IT WAS A WHOLE NEW TAG.

9 Q. AND APPROXIMATELY HOW LONG AFTER SUBMITTING THIS TO THE DMV
10 DID YOU PUT THOSE NEW PLATES ON?

11 A. I CAN'T RECALL. AS SOON AS I GOT THEM FROM THEM. I DON'T
12 REMEMBER I GOT IT THAT DAY. PRETTY SURE I DID GET IT THE DAY OF
13 THE SUMMISSION. IF NOT, SOON AFTER. I DON'T REMEMBER.

14 Q. DO YOU REMEMBER IF IT WAS 2006 OR 2007?

15 A. 2006.

16 Q. NOW, AFTER HAVING HAD YOUR PLATES STOLEN, DID YOU FORM ANY
17 KIND OF HABIT ABOUT CHECKING THEM AFTERWARD?

18 A. OF COURSE.

19 Q. DID YOU LOOK OFTEN AT YOUR CAR TO SEE IF THE PLATES WERE
20 STILL ON IT?

21 A. YES.

22 Q. WHEN WAS THE LAST DAY YOU SAW THIS CAR?

23 A. THAT WOULD BE FEBRUARY 25TH OF THIS YEAR.

24 Q. DID YOU EVER GIVE MISS MAYS PERMISSION TO DRIVER THAT CAR?

25 A. YES.

1 Q. AND AFTER FEBRUARY 25TH, YOU DIDN'T SEE IT ANY LONGER?

2 A. NO.

3 Q. WAS THE CAR IN YOUR CUSTODY AND CONTROL?

4 A. IT WAS IN HER CUSTODY AND CONTROL. WE WERE IN A
5 RELATIONSHIP AT THE TIME.

6 Q. AS OF FEBRUARY 25, 2007, ARE YOU QUITE CERTAIN THE FRONT
7 AND BACK LICENSE PLATES WERE AFFIXED TO THE CAR?

8 A. CERTAIN OF THAT.

9 MS. FALK: NOTHING FURTHER.

10 CROSS-EXAMINATION

11 BY MS. WANG:

12 Q. GOOD AFTERNOON.

13 YOU DIDN'T SEE THAT VEHICLE AT ALL ON MARCH 18, 2007, DID
14 YOU?

15 A. NO, MA'AM. I WAS INCARCERATED.

16 Q. SO YOU CAN'T SAY WHETHER THE FRONT LICENSE PLATE WAS
17 AFFIXED ON MARCH 18, 2007?

18 A. NO, I CAN'T.

19 Q. AND YOU SAID -- YOU TESTIFIED THAT YOU PUT THE PLATES ON
20 WITH A SCREWDRIVER, CORRECT?

21 A. YES.

22 Q. PRETTY EASY TO DO, USE A NORMAL SCREWDRIVER?

23 A. YES.

24 Q. WOULD IT HAVE BEEN JUST AS EASY TO TAKE THESE PLATES OFF
25 WITH A NORMAL SCREWDRIVER?

1 A. YES.

2 MS. WANG: NOTHING FURTHER.

3 THE COURT: ANYTHING FURTHER?

4 MS. FALK: NOTHING FURTHER.

5 THE COURT: IS HE EXCUSED?

6 MS. FALK: YES.

7 THE COURT: CALL YOUR NEXT WITNESS.

8 MS. FALK: MISS CARMELA PEREZ.

9 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
10 YOU SHALL GIVE IN THE MATTER NOW PENDING BEFORE THIS COURT,
11 SHALL BE THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH,
12 SO HELP YOU GOD.

13 THE WITNESS: YES.

14 CARMELA PEREZ,
15 CALLED AS A WITNESS BY THE DEFENSE, WAS DULY SWORN, AND
16 TESTIFIED AS FOLLOWS:

17 THE CLERK: PLEASE BE SEATED. STATE YOUR FULL NAME AND
18 SPELL YOUR LAST, FOR THE RECORD.

19 THE WITNESS: CARMEN MARIE PEREZ, ALSO KNOWN AS
20 CARMELA, P-E-R-E-Z, LIKE ZEBRA.

21 DIRECT EXAMINATION

22 BY MS. FALK:

23 Q. MISS PEREZ, WHERE DO YOU RESIDE?

24 A. 555 CRESPIY DRIVE NORTH, 201, IN PACIFICA, CALIFORNIA.

25 Q. WHO DO YOU LIVE THERE WITH CURRENTLY?

1 A. I AM CURRENTLY THERE WITH MY SON AND WITH NICOLE.

2 Q. NICOLE, THE DEFENDANT?

3 A. YES.

4 Q. WHAT DO YOU DO FOR A LIVING:

5 A. I AM AN ORDAINED MINISTER, AND THAT'S WHAT I DO FOR A
6 LIVING.

7 Q. HOW LONG HAVE YOU KNOWN NICOLE MAYS?

8 A. I KNOW IT'S APRIL, AROUND THE 18TH OR 19TH OF APRIL.

9 Q. OKAY.

10 A. THIS YEAR.

11 Q. AND IS MISS MAYS CURRENTLY LIVING WITH YOU?

12 A. NO. THEY'RE JUST STAYING WITH US -- STAYING WITH ME --
13 UNTIL THEY FIND THEIR OWN PLACE. BUT YOU COULD SAY THEY'RE
14 LIVING --

15 Q. THERE?

16 A. THERE.

17 Q. DID ANYTHING NOTABLE HAPPEN TO YOU ON APRIL 18, 2007?

18 A. APRIL 18TH?

19 THE COURT: 25TH. DISCLOSURE WAS THE 25TH.

20 MS. FALK: I'M SORRY. I THOUGHT IT WAS APRIL 18TH.

21 THE COURT: JUST REFERRING TO YOUR WITNESS LIST THAT
22 YOU GAVE ME TODAY.

23 MS. FALK: SORRY. THAT'S THE WRONG DATE. SHOULD BE
24 APRIL 18.

25 BY MS. FALK:

1 Q. IN CONNECTION WITH YOUR WALLET.

2 A. YES. MY WALLET WAS STOLEN.

3 Q. FROM YOUR HOME?

4 A. YES.

5 Q. AND DID MISS MAYS HELP YOU OUT ANY WAY IN CONNECTION WITH
6 YOUR STOLEN WALLET?

7 A. SHE MADE HERSELF AVAILABLE TO DRIVE ME TO THE DEPARTMENT OF
8 MOTOR VEHICLES SO THAT I CAN APPLY FOR A NEW DRIVER'S LICENSE.

9 Q. AND DO YOU REMEMBER SHE DID THAT?

10 A. I HAVE IT HERE. I BELIEVE IT'S APRIL THE 24TH. I DON'T
11 HAVE MY GLASSES. BUT IT'S ON HERE. I BELIEVE I PUT IT --

12 THE COURT: HAND IT UP TO ME. EXPIRATION DATE?

13 THE WITNESS: WHERE MY SIGNATURE IS.

14 THE COURT: APRIL 23RD, 2007.

15 THE WITNESS: OKAY. THAT'S WHEN IT WAS THAT SHE TOOK
16 ME.

17 BY MS. FALK:

18 Q. DID YOU NOTICE ANYTHING ABOUT THE LICENSE PLATES ON THE CAR
19 SHE WAS DRIVING THAT DAY?

20 A. WELL, I NOTICED THAT SHE HAD HER FRONT PLATES ON AND I
21 NOTICED THE BACK THAT HAD A STICKER ON HER PLATE.

22 Q. SO YOU SPECIFICALLY RECALL THE PLATE BEING ON THE CAR THAT
23 DAY?

24 A. YES.

25 Q. IS THERE ANY REASON THAT YOU REMEMBER?

1 A. YES. BECAUSE I HAD DRIVEN TO SANTA ROSA, AND A HIGHWAY
2 PATROL OFFICER STOPPED ME BECAUSE I DID NOT HAVE CURRENT TAGS,
3 AND I SHOWED THE OFFICER THAT I HAD ALREADY PAID FOR THEM. I
4 WAS JUST WAITING FOR THEM TO ARRIVE. SO THEY GAVE ME A
5 CITATION, WHICH WAS \$10.00, AND SAID, "GET IT DONE". SO WHEN
6 THE STICKER CAME, I PUT IT ON, SO THAT THEN I ASKED, MYSELF, THE
7 QUESTION, "DO I GET A STICKER IN FRONT ALSO?" AND THEY SAID,
8 "NO. JUST YOUR BACK." SO I HAVE ALWAYS BEEN VERY CAUTIOUS,
9 SPECIALLY WHEN I WENT TO DMV, TO NOTICE THAT, BECAUSE OF MY
10 EXPERIENCE.

11 MS. FALK: I DON'T HAVE ANY FURTHER QUESTIONS OF MISS
12 PEREZ.

13 CROSS-EXAMINATION

14 BY MS. WANG:

15 Q. HELLO.

16 A. HELLO.

17 Q. YOU TESTIFIED THAT YOU MET THE DEFENDANT IN APRIL OF THIS
18 YEAR.

19 IS THAT CORRECT?

20 A. THAT IS CORRECT.

21 Q. SO YOU DIDN'T KNOW HER IN MARCH OF THIS YEAR.

22 IS THAT CORRECT?

23 A. THAT'S CORRECT.

24 Q. IN APRIL YOU HADN'T SEEN HER VEHICLE IN MARCH OF THIS YEAR?

25 A. NO, I HAD NOT.

1 Q. SO YOU DON'T KNOW WHETHER OR NOT HER FRONT LICENSE PLATE
2 WAS AFFIXED ON MARCH 18TH, THIS YEAR, DO YOU?

3 A. MARCH? NO.

4 Q. NOW, YOU TESTIFIED THAT ON APRIL 23RD, I BELIEVE, YOU
5 SPECIFICALLY RECALL THAT THERE WAS A FRONT AND BACK LICENSE
6 PLATE, CORRECT?

7 A. YES.

8 Q. AND YOU PAID SPECIFIC ATTENTION TO THE TAGS ON THOSE
9 VEHICLES?

10 A. YES, BECAUSE OF THE EXPERIENCE THAT I HAD HAD. IF SHE
11 DIDN'T HAVE IT, I WOULD HAE RELATED TO HER MY EXPERIENCE SO THAT
12 SHE WOULDN'T FINDS HERSELF WITH A TICKET.

13 Q. SO WHAT WAS THE EXPIRATION DATE OF HER TAGS?

14 A. I DON'T KNOW.

15 Q. BUT YOU PAID SPECIFIC ATTENTION AND YOU SPECIFICALLY LOOKED
16 AT TAGS OF VEHICLES?

17 A. I SPECIFICALLY SAW THAT SHE HAD HER FRONT PLATE, AND I
18 NOTICED THAT SHE HAD HER BACK PLATES ALSO. AND I WOULD SAY,
19 YES, THEY WOULD HAVE HAD TO HAVE BEEN CURRENT BECAUSE, IF NOT, I
20 THINK I WOULD HAVE TOLD HER, "YOUR STICKER ISN'T CURRENT," AND
21 THEN I WOULD HAVE EXPLAINED TO HER MY EXPERIENCE THAT I HAD HAD
22 WITH THE HIGHWAY PATROL GOING TOWARDS SANTA ROSA.

23 Q. BUT YOU DON'T REMEMBER WHAT THE EXPIRATION DATE WAS?

24 A. I CAN'T EVEN TELL YOU WHAT MINE WOULD BE.

25 Q. BUT YOU SPECIFICALLY LOOKED AT IT ON THAT DATE?

1 A. YES, MA'AM, I DID.

2 Q. THE DEFENDANT I ENGAGED TO YOUR SON.

3 IS THAT CORRECT?

4 A. YES.

5 Q. THEY LIVE WITH YOU IN YOUR HOME?

6 A. THEY ARE STAYING WITH ME, AND SO IT'S NOT THAT THEY'RE
7 GOING TO COME LIVE WITH ME, BUT THEY ARE PRESENTLY LIVING WITH
8 ME.

9 Q. YOU'RE DOING THE DEFENDANT A FAVOR BY HAVING HER STAY WITH
10 YOU UNTILL SHE FINDS A PLACE OF HER OWN?

11 A. YES.

12 Q. SHE DID YOU A FAVOR BY DRIVING YOU TO THE DMV THAT DAY
13 THATYOU LOST YOUR WALLET?

14 A. WELL, IF YOU WANT TO CALL IT A FAVOR, YES.

15 Q. YOU TREAT THE DEFENDANT AS FAMILY?

16 A. WELL, IS A MINISTER, I TREAT EVERYONE ABSOLUTE DIGNITY AND
17 RESPECT; SO SHE GETS NO MORE DIGNITY AND RESPECT BECAUSE SHE IS
18 ASSOCIATED WITH MY SON, AND THOSE THAT KNOW ME WOULD TESTIFY TO
19 THAT.

20 MS. WANG: NOTHING FURTHER.

21 THE COURT: ANYTHING FURTHER?

22 MS. FALK: NO, YOUR HONOR.

23 THE COURT: ARE YOU DONE WITH THIS WITNESS?

24 MS. FALK: I AM.

25 THE COURT: YOU MAY STEP DOWN.

1 CALL YOUR NEXT WITNESS.

2 MS. FALK: CALL NICOLE MAYS.

3 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE TESTIMONY
4 YOU SHALL GIVE IN THE MATTER PENDING BEFORE THIS COURT, SHALL BE
5 THE TRUTH, THE WHOLE TRUTH, AND NOTHING BUT THE TRUTH, SO
6 HELPYOU GOD.

7 THE WITNESS: SO HELP ME GOD.

8 NICOLE LEA MAYS,
9 CALLED AS A WITNESS BY THE DEFENSE, HAVING BEEN DULY SWORN,
10 TESTIFIED AS FOLLOWS:

11 THE CLERK: PLEASE BE SEATED AND STATE YOUR FULL NAME
12 AND SPELL YOUR LAST NAME, FOR THE RECORD.

13 THE WITNESS: NICOLE, N-I-C-O-L-E, MIDDLE NAME, LEA,
14 L-E-A. LAST NAME MAYS, M-A-Y-S.

15 DIRECT EXAMINATION

16 BY MS. FALK:

17 Q. MISS MAYS, TURNING YOUR ATTENTION TO MARCH 18, 2007, WAS
18 THERE A FRONT LICENSE PLATE AFFIXED TO YOUR CAR?

19 A. YES, MA'AM.

20 Q. WAS THERE A FRONT LICENSE PLATE SITTING IN YOUR DASHBOARD
21 AS OPPOSED TO PROPERLY PUT ON THE FRONT OF YOUR CAR?

22 A. NO, MA'AM.

23 Q. DO YOU REMEMBER WHEN YOU WERE STOPPED WHEN A POLICE OFFICER
24 APPROACHED YOU IN A PARKED CAR THAT DAY?

25 A. YES, MA'AM.